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6 Attorneys for Claimant
7 Brian Weir

8 IN THE MATTER OF THE CLAIM OF) **CLAIM FOR DAMAGES AND OTHER**
9 CLAIMANT BRIAN WEIR) **RELIEF**

10 Claimant,
11 vs.)

12 CITY OF BEVERLY HILLS, CITY OF)
13 BEVERLY HILLS POLICE)
14 DEPARTMENT, CHIEF OF POLICE)
15 DAVID SNOWDEN, CAPTAIN TONY LEE,))
16 LIEUTENANT TERRY NUTALL, AND)
17 DOES 1 - 100.)

18 Please be advised that claimant Brian Weir ("claimant") hereby submits a
19 Governmental Claim pursuant to *Government Code* Sections 905 and 910, et seq. and
20 other authorities.

21 **A. NAME AND ADDRESS OF CLAIMANT:** Brian Weir, c/o Christopher Brizzolara,
22 1528 16th Street, Santa Monica, California 90404, Telephone: (310) 394-6447,
23 Telecopier: (310) 656-7701.

24 **B. ADDRESS TO SEND ALL CLAIMS AND OTHER NOTICES:** Christopher
25 Brizzolara, 1528 16th Street, Santa Monica, California 90404, Telephone: (310) 394-
26 6447, Telecopier: (310) 656-7701.

27 **C. THE DATE, PLACE AND OTHER CIRCUMSTANCES OF THE OCCURRENCE**
28 **OR TRANSACTIONS WHICH GIVE RISE TO THE CLAIMS ASSERTED:**

1
CLAIM FOR DAMAGES AND OTHER RELIEF

1
2 **Date:** In or around April/May, 2013, and continuing.

3 **Place:** Beverly Hills Police Department, 464 North Rexford Drive, Beverly Hills,
4 California 90210 and other locations.

5
6 **Facts:** Claimant was assigned as a sergeant to the SWAT and K-9 Units of the
7 Beverly Hills Police Department (hereafter the Department"), which are and have been
8 considered to be a coveted positions in the Department. On or about February 11,
9 2012, claimant, as the senior patrol sergeant in the Department on duty, responded to
10 the scene of the death of Whitney Houston ("decedent") at the Beverly Hilton Hotel in
11 Beverly Hills, California. Claimant attempted to secure and preserve the scene of the
12 death and the evidence thereat in order to attempt to assure a competent and thorough
13 inquiry and investigation could be performed into the facts, events, and circumstances
14 surrounding the death of the decedent. At that time, in order to prevent contamination
15 of potential DNA and other potential evidence on the body of the decedent, and to
16 attempt to preserve the dignity of the remains of the decedent, the decedent's body was
17 covered with a sheet and/or other covering. Thereafter, Beverly Hills Police
18 Department Detective Sergeant (now Lieutenant) Terry Nutall ("Nutall"), who at the time
19 was assigned and responsible for overseeing Court Liaison duties and criminal
20 investigations involving fraud/forgery, auto burglaries, arrived at the scene of the death
21 of the decedent. Detective Sergeant Nutall, for no legitimate law enforcement inquiry,
22 investigative, or other proper and legal purpose, knelt beside and leaned over the
23 decedent, removed the sheet and/or other covering from the body of the decedent to an
24 area below the pubic region of the decedent's body, and came in close proximity to
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1 touching the body of the decedent while making inappropriate comments to the effect
2 and substance that the decedent "looked attractive for a woman of her age and current
3 state" and "Damn, she's still looking good, huh?"
4

5 Upon information and belief, Nutall's actions violated state or federal statutes or
6 were in noncompliance with state or federal rules or regulations including disturbing
7 and/or moving the body of the decedent from the position of death without permission
8 of the coroner or the coroner's appointed deputy, and caused potential and/or actual
9 contamination of potential DNA and/or other potential evidence on the body of the
10 decedent. Further, upon information and belief, Nutall, in a manner not authorized by
11 law, treated the dead body of the decedent in a way that Nutall knew would outrage
12 ordinary family sensibilities, as defined by and in violation of *Model Penal Code* 250.10.
13 Additionally, upon information and belief, Nutall's actions violated various provisions of
14 the Department's manual, including, *inter alia*, sections 4/238, et seq.
15
16

17 From in or around February 11, 2012 and continuing at other times, claimant
18 disclosed to the City of Beverly Hills and/or the Beverly Hills Police Department,
19 government and/or law enforcement agencies, information which claimant had
20 reasonable cause to believe disclosed violations of state or federal statutes, or violation
21 or noncompliance with state or federal rules or regulations, by agent(s) and/or
22 employee(s) of the City of Beverly Hills and/or the Beverly Hills Police Department,
23 including but not limited to, disturbing and/or moving the body of the decedent from the
24 position of death without permission of the coroner or the coroner's appointed deputy,
25 treating the dead body of the decedent in a way that would outrage ordinary family
26 sensibilities, potentially and/or actually contaminating potential DNA and/or other
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1 potential evidence on the body of the decedent, harming the integrity of the scene of
2 the death of the decedent, attempting to impede and/or obstruct, and/or impeding
3 and/or obstructing inquiry and/or investigation into the facts, events, and circumstances
4 surrounding the death of the decedent, making and/or attempting to make false
5 statements in report(s) regarding the investigation of potentially criminal circumstances,
6 events, and/or other activities, attempting to willfully destroy and/or wilfully destroying
7 matters or things to be produced in evidence in regard to inquiry(s) or investigation(s)
8 authorized by law, harassing and/or discriminatory remarks and/or other conduct in
9 violation of FEHA, Title 7, the California and United States Constitutions, and other
10 statutes, and other violations of state or federal statutes, or violation or noncompliance
11 with state or federal rules or regulations.
12

13
14 After complaining to his superiors and others in the City of Beverly Hills and/or
15 the City of Beverly Hills Police Department, and others, regarding the above, claimant
16 was subjected to removal from his position with the SWAT and K-9 Units of the Beverly
17 Hills Police Department, denial of promotion to other positions, removal of employment
18 supervisory duties and responsibilities, removal of duties and responsibilities, denial of
19 special pay, loss of overtime compensation, denial of training, harassment and
20 ostracizing, receiving inappropriate and harassing comments and/or documents,
21 subjected to conduct undermining his authority as a supervisor, disparaging comments
22 concerning responding party, and other substantial and material adverse employment
23 actions.
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27 Claimant disclosed information to the City of Beverly Hills and/or the City of
28 Beverly Hills Police Department, government and/or law enforcement agencies, which

1 claimant had reasonable cause to believe disclosed violations of state or federal
2 statutes, or violation or noncompliance with state or federal rules or regulations, by
3 other employees of the City of Beverly Hills and/or the City of Beverly Hills Police
4 Department.
5

6 The City of Beverly Hills and/or the City of Beverly Hills Police Department made,
7 adopted, and/or enforced rules, regulations, and/or policies designed to prevent
8 claimant and other employees from disclosing information to a government or law
9 enforcement agencies, which claimant and other employees had reasonable cause to
10 believe disclosed violations of state or federal statutes.
11

12 The City of Beverly Hills and/or the City of Beverly Hills Police Department and
13 others retaliated against claimant for disclosing information to the City of Beverly Hills
14 and/or the City of Beverly Hills Police Department, law enforcement and/or government
15 agencies, which the claimant had reasonable cause to believe disclosed violations of
16 state or federal statutes, or violations or noncompliance with state or federal rules or
17 regulations, including but not limited to: 1) denying claimant coveted and/or favorable
18 job positions and assignments; 2) subjecting claimant and subordinates of claimant to
19 ostracism and harassment; 3) removing from claimant job responsibilities which would
20 further claimant's career; 4) denying claimant other employment benefits; 5) knowingly
21 making false, misleading or malicious statements regarding claimant which were and
22 are reasonably calculated to harm or destroy the reputation, authority or official
23 standing of the claimant; 6) refusing to promote plaintiff; 7) receiving inappropriate and
24 harassing comments and documents; 8) disparaging comments concerning responding
25 party; 9) denial of special pay; 10) loss of overtime compensation; 11) removal from
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1 the SWAT and K-9 Units of the City of Beverly Hills and/or the City of Beverly Hills
2 Police Department; and 12) other actions having a substantial and material adverse
3 effect on claimant's employment.
4

5 A motivating reason and/or contributing cause for the City of Beverly Hills and/or
6 the City of Beverly Hills Police Department engaging in the foregoing adverse
7 employment actions against claimant was to retaliate for the claimant engaging in the
8 protected activities of disclosing information to the City of Beverly Hills and/or the City of
9 Beverly Hills Police Department, government and/or law enforcement agencies, which
10 the claimant had reasonable cause to believe disclosed violations of state or federal
11 statutes, or violations or noncompliance with state or federal rules or regulations, in
12 violation of *Labor Code* Section 1102.5, et seq.
13

14 The City of Beverly Hills and/or the City of Beverly Hills Police Department
15 further retaliated against claimant for refusing to participate in activities that would result
16 in a violation of state or federal statutes, or a violation or noncompliance with a state or
17 federal rules or regulations.
18

19 Further, claimant made the written and other provision of evidence regarding an
20 abuse of authority pertaining to the conduct of the City of Beverly Hills and/or the City of
21 Beverly Hills Police Department.
22

23 Chief of Police David Snowden, Captain Tony Lee, Lieutenant Terry Nutall,
24 and/or other agents and/or employees of the City of Beverly Hills and/or the City of
25 Beverly Hills Police Department, acting within the course and scope of their
26 employment with the City of Beverly Hills and/or the City of Beverly Hills Police
27 Department, took reprisal actions, including acts of intimidation, restraint, coercion,
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1 discrimination, punitive, and/or disciplinary action against claimant, including but not
2 limited to: 1) denying claimant coveted and/or favorable job positions and assignments;
3 2) subjecting claimant and subordinates of claimant to ostracism and harassment; 3)
4 removing from claimant job responsibilities which would further claimant's career; 4)
5 denying claimant other employment benefits; 5) knowingly making false, misleading or
6 malicious statements regarding claimant which were and are reasonably calculated to
7 harm or destroy the reputation, authority or official standing of the claimant; 6) refusing
8 to promote plaintiff; 7) receiving inappropriate and harassing comments and
9 documents; 8) disparaging comments concerning responding party; 9) denial of special
10 pay; 10) loss of overtime compensation; 11) removal from the SWAT and K-9 Units of
11 the City of Beverly Hills and/or the City of Beverly Hills Police Department; and 12)
12 other actions having a substantial and material adverse effect on claimant's
13 employment.
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17 A motivating reason and/or a concurrent cause for the engaging in the foregoing
18 reprisal actions and/or adverse employment actions against claimant was to retaliate
19 against claimant for having made the written and other provision of evidence regarding
20 an abuse of authority pertaining to the conduct of City of Beverly Hills and/or the City of
21 Beverly Hills Police Department, and their supervisors, managers, managing agents,
22 agents, and/or employees, in violation of *Government Code* Section 53298, et seq.
23

24 Further, claimant, as sworn California peace officer, was at all times pertinent
25 hereto entitled to the protections of the Peace Officers Bill of Rights ("POBR")
26 (*Government Code* Section 3300, et seq.)
27

28 From in or around May, 2013 to present and continuing, the City of Beverly Hills

1 and/or the City of Beverly Hills Police Department maliciously violated with the intent to
2 injure the claimant, the POBR, including but not limited to:

- 3 a. failing to make a copy of and/or keep available for inspection claimant's
4 personnel file and/or other files used for personnel purposes by defendant City, in
5 violation of *Government Code* Sections 3305, 3306, and 3306.5;
6
7 b. subjecting claimant to punitive action, denying claimant coveted position(s)
8 and/or promotions, and/or threatening claimant with such treatment, because of the
9 lawful exercise of the rights granted under the POBR, and/or the exercise of any rights
10 under existing administrative grievance procedures, in violation of *Government Code*
11 Sections 3304;
12
13 c. subjecting claimant to punitive action and/or denying claimant coveted
14 positions(s) and/or promotion on grounds other than merit, without providing claimant
15 with an opportunity for administrative appeal, in violation of *Government Code* Sections
16 3304;
17
18 d. other violations of the POBR.

19 Further, *Labor Code* Section 1102.5, *Government Code* Sections 3300, et seq.,
20 and 53298, et seq. set forth fundamental public policies which protect employees in the
21 State of California from being subjected to reprisals and adverse employment actions
22 based upon the protected classes, activities, and conduct set forth therein. During the
23 term of claimant's employment, claimant was subjected to the reprisals, retaliation, and
24 denial of employment benefits based upon claimant's activities and conduct protected
25 by *Labor Code* Section 1102.5, *Government Code* Section 3300, et seq., and 53298, et
26 seq. Said reprisals and adverse decisions and employment actions of the City of
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1 Beverly Hills and/or the City of Beverly Hills Police Department, and/or agents and/or
2 employees of the City of Beverly Hills and/or the City of Beverly Hills Police Department
3 acting within the course and/or scope of their employment with the City of Beverly Hills
4 and/or the City of Beverly Hills Police Department claimant injury, damage, loss, or
5 harm.
6

7 The conduct of the City of Beverly Hills and/or the City of Beverly Hills Police
8 Department, and/or agents and/or employees of the City of Beverly Hills and/or the City
9 of Beverly Hills Police Department, acting within the course and scope of their
10 employment with the City of Beverly Hills and/or the City of Beverly Hills Police
11 Department, in violating *Labor Code* Section 1102.5, *Government Code* Sections 3300,
12 et seq. and 53298, et seq., and/or other misconduct was outrageous.
13

14 The conduct of the agents and/or employees of the City of Beverly Hills and/or
15 the City of Beverly Hills Police Department, acting within the course and scope of their
16 employment with the City of Beverly Hills and/or the City of Beverly Hills Police
17 Department, was intended to cause claimant economic and non-economic damages,
18 including emotional distress and damage to claimant's reputation, and/or the City of
19 Beverly Hills and/or the City of Beverly Hills Police Department, and/or agents and/or
20 employees of the City of Beverly Hills and/or the City of Beverly Hills Police
21 Department, acting within the course and/or scope of their employment with the City of
22 Beverly Hills and/or the City of Beverly Hills Police Department, acted with reckless
23 disregard of the probability that claimant would suffer economic and non-economic
24 damages, including emotional distress and damage to claimant's reputation. The
25 conduct of the City of Beverly Hills and/or the City of Beverly Hills Police Department,
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1 and/or agents and/or employees of the City of Beverly Hills and/or the City of Beverly
2 Hills Police Department, acting within the course and scope of their employment with
3 the City of Beverly Hills and/or the City of Beverly Hills Police Department, caused
4 claimant to suffer economic and non-economic damages, including emotional distress
5 and damage to claimant's reputation, and other injury, damage, loss, or harm.
6

7 Claimant alleges that each of the entities and individuals named above, and
8 each of them, are the agents, servants and/or employees of each other entity and
9 individual named above, and at all relevant times were acting within the course and
10 scope of said agency, service and/or employment. Claimant alleges that he was
11 subjected to retaliatory conduct and reprisals by each of the entities and individuals
12 named above for his complaints and engaging in other protected activities as outlined
13 above.
14

15 Claimant alleges that the conduct described herein was and is a violation of
16 *Labor Code* Sections 1102.5, *Government Code* Sections 3300, et seq., and 53298, et
17 seq., and other state and federal statutes, codes, and regulations, and that such
18 violations were a substantial factor and an actual, legal, and proximate cause of
19 claimant suffering the injuries, damages, loss, and/or harm set forth below. Claimant
20 also claims attorneys fees and costs under all applicable provisions.
21

22 Claimant has timely filed government claim(s) within six months of the injury,
23 damage, loss, and/or harm caused by the acts, omissions, and other misconduct of the
24 City of Beverly Hills and/or the City of Beverly Hills Police Department, and their
25 supervisors, managers, managing agents, agents, and/or employees set forth above.
26

27 **D. GENERAL DESCRIPTION OF THE INJURY, DAMAGE, OR**
28

1 **LOSS INCURRED:**

2 Claimant has sustained and will continue to sustain economic and non-economic
3 damages, including emotional distress and damage to claimant's reputation, and other
4 injury, damage, loss, or harm. Claimant was required, and/or in the future may be
5 required, to engage the services of health care providers, and incurred expenses for
6 medicines, health care appliances, modalities, and/or other related expenses in a sum
7 to be ascertained according to proof. Claimant was and/or will be hindered, prevented,
8 and/or precluded from performing claimant's usual activities, training, schooling,
9 education, and occupation, and denied claimant additional background, training, and
10 experience as a law enforcement officer, causing the claimant to sustain damages for
11 past and future loss of income, wages, earning, and earning capacity, and other
12 economic damages, in an amount to be ascertained according to proof. Claimant
13 suffered incidental, consequential, and/or special damages, in an amount according to
14 proof. Claimant has and will continue to incur attorneys fees and costs in an amount
15 according to proof, and is entitled to recover same, as well as statutory and other
16 penalties, under the *Labor Code*, C.C.P. 1021.5, *Government Code* Sections 3309.5
17 and 53298.5, and/or other applicable authorities. Claimant has and/or will sustain
18 health care expenses, loss of past, present and future earnings, income, benefits, and
19 services, loss of household services and physical assistance in the operation of the
20 household, loss of academic, social, vocational, and recreational opportunities,
21 activities, abilities, and capacities, pre-judgment interest, and other damages. Claimant
22 will also seek exemplary and punitive damages against the individuals causing injury,
23 damage, or loss to claimant in a sum appropriate to punish said individuals, and to
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1 deter such conduct in the future, and to set an example for others.

2 **E. NAMES OF PUBLIC EMPLOYEES CAUSING THE INJURY, DAMAGE OR**
3 **LOSS TO CLAIMANT INCLUDE BUT ARE NOT LIMITED TO THE**
4 **FOLLOWING:**

5 Chief of Police David Snowden, Captain Tony Lee, Lieutenant Terry Nutall,
6 and/or other agents and/or employees of the City of Beverly Hills and/or the City of
7 Beverly Hills Police Department, acting within the course and scope of their
8 employment with the City of Beverly Hills and/or the City of Beverly Hills Police
9 Department, in regard to the above-described matters

10
11 **F. OTHER WITNESS INFORMATION:**

12 Lt. Joseph Chirillo, Detective Sergeant Michael Publicker, Sergeant Sean
13 Smollen, Sergeant Sean Dexter, Detective Chris Coulter, Officer Finn McClafferty,
14 Officer Eric Olsen, and/or other agents and/or employees of the City of Beverly Hills
15 and/or the City of Beverly Hills Police Department, acting within the course and scope
16 of their employment with the City of Beverly Hills and/or the City of Beverly Hills Police
17 Department, and others.

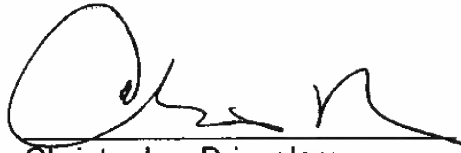
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20 **G. JURISDICTION OF THIS MATTER WILL BE PROPER IN THE STATE**
21 **SUPERIOR OR OTHER COURT OF UNLIMITED JURISDICTION.**

22 Claimant has sustained and will continue to sustain economic and non-economic
23 damages, including emotional distress and damage to claimant's reputation, and other
24 injury, damage, loss, or harm. Claimant was required, and/or in the future may be
25 required, to engage the services of health care providers, and incurred expenses for
26 medicines, health care appliances, modalities, and/or other related expenses in a sum
27 to be ascertained according to proof. Claimant was and/or will be hindered, prevented,
28

1 and/or precluded from performing claimant's usual activities, training, schooling,
2 education, and occupation, and denied claimant additional background, training, and
3 experience as a law enforcement officer, causing the claimant to sustain damages for
4 past and future loss of income, wages, earning, and earning capacity, and other
5 economic damages, in an amount to be ascertained according to proof. Claimant
6 suffered incidental, consequential, and/or special damages, in an amount according to
7 proof. Claimant has and will continue to incur attorneys fees and costs in an amount
8 according to proof, and is entitled to recover same, as well as statutory and other
9 penalties, under the *Labor Code*, C.C.P. 1021.5, *Government Code* Sections 3309.5
10 and 53298.5, and/or other applicable authorities. Claimant has and/or will sustain
11 health care expenses, loss of past, present and future earnings, income, benefits, and
12 services, loss of household services and physical assistance in the operation of the
13 household, loss of academic, social, vocational, and recreational opportunities,
14 activities, abilities, and capacities, pre-judgment interest, and other damages. Claimant
15 will also seek exemplary and punitive damages against the individuals causing injury,
16 damage, or loss to claimant in a sum appropriate to punish said individuals, and to
17 deter such conduct in the future, and to set an example for others. Pursuant to
18 *Government Code* Section 910(f), the amount of damages claimed exceeds \$10,000
19 and will also necessarily lie within the unlimited jurisdiction of the Superior Court.
20 Claimant also claims attorney's fees and costs as provided by law, including the *Labor*
21 *Code*, C.C.P. 1021.5, *Government Code* Sections 3309.5 and 53298.5. and other
22 applicable authorities.
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1 DATED: 9/10/13

By:

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5 Christopher Brizzolara
6 Attorney for Claimant Brian Weir
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